

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-v.-

LUIS OMAR VARGAS,

Defendant.
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Case No. 18 Cr. 76 (PAC)

**RESPONSE OF THE UNITED STATES OF AMERICA TO DEFENDANT’S MOTION
TO SUPPRESS STATEMENTS**

On September 10, 2018, defendant Luis Omar Vargas (“defendant”) filed a motion to suppress statements made by him to law enforcement officers on November 30, 2017, the date of his arrest. The motion was accompanied by a sworn affidavit of the defendant.

The Government agrees that the affidavit of the defendant raises a material issue of fact with respect to the constitutionality of the admission of the statements obtained from the defendant. As a result, the Government hereby consents to an evidentiary hearing in this matter, limited to the following issues:

1) whether the defendant was advised of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), prior to the time at which he was interrogated by law enforcement officers on the day of his arrest;

2) whether prior to when he was advised of his *Miranda* rights law enforcement officers engaged in a “deliberate, two-step strategy . . . to obtain [a] postwarning confession.” *United States v. Montiel*, No. 12 Cr. 533 (PAC), 2013 WL 5904309, at *7 (S.D.N.Y. Nov. 4, 2013) (*quoting United States v. Carter*, 489 F.3d 528, 535 (2d Cir. 2007)); and

3) whether the defendant understands “English sufficiently well to comprehend the Miranda warnings as given to him and waived those rights voluntarily and intelligently.” *United States v. Yilmaz*, 508 F. App'x 49, 53 (2d Cir. 2013).

The Government is prepared to brief the applicable legal principles that govern resolution of this matter in a post-hearing brief, or if the Court wishes, at any earlier point.

Respectfully submitted,

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October 1, 2018